

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

In re Maranda Nichole Grasley,  
Debtor,

Chapter 13  
Docket No.: 5:22-bk-02354-MJC

AFFIDAVIT IN SUPPORT OF RESPONSE TO OBJECTION TO AMENDED PROOF OF CLAIM  
NUMBER 5

I declare under penalty of perjury the following:

1. I, Angel Nayman, am over 18 years of age, a citizen of the United States of America and am of sound mind.

2. This Certification is made on behalf of non-party Synchrony Bank (“Synchrony”), in connection with the above captioned matter. Synchrony is a bank with its charter home office in Draper, Utah.

3. I am employed by Synchrony as a Vice President, Litigation Support. In this position I have personal knowledge of the business records of Synchrony and I am a qualified person authorized to declare and certify on behalf of Synchrony. If called as a witness, I can testify to a court competently as to my knowledge of the facts contained herein.

4. The facts stated herein are within my personal knowledge and are based upon my review of the relevant business records of Synchrony, including those annexed hereto. My responsibilities include regularly accessing and reviewing Synchrony cardholder records,

maintaining and compiling histories of credit card account agreements, and reviewing and analyzing account records and transaction histories, including communication to and from cardholders. I have performed these responsibilities for Synchrony and its predecessors since 2011.

5. In the ordinary course of its regularly conducted business, Synchrony maintains electronic records related to each account. These records are made by, or from, information transmitted by an individual with knowledge of the events described therein at or near the time of the event described in each record, and in the ordinary course of regularly conducted business activity of such person and Synchrony. Among other things, these records enable Synchrony to determine what documents were sent to a cardholder, and when those documents were sent. Synchrony relies on these electronic records in the ordinary course of managing and servicing its cardholders' accounts.

#### **The Grasley Old Navy Visa Account**

6. Upon receiving a credit card application in the name of Maranda Grasley (“Grasley”), Synchrony approved the application and opened an Old Navy Visa credit card account in the name of Grasley bearing an account number ending in “9613” (the “Old Navy Visa Account”). Synchrony’s records show that the Account was opened on or about June 10, 2021.

7. At the time the Old Navy Visa Account was opened, Synchrony had a regular procedure of mailing, via United States Postal Service, the credit card and a copy of the credit card agreement that governed the account for each new Old Navy Visa cardholder. Pursuant to that procedure, the credit card agreement is mailed to the address of record for the cardholder.

8. Review of the records relating to the Old Navy Visa Account indicates that the aforementioned procedure was followed when the Old Navy Visa Account was opened and that the credit card for the Old Navy Visa Account and the effective credit card account agreement

that governed the Old Navy Visa Account (the “Old Navy Visa Account Agreement”) were mailed to Plaintiff at her address of record at 1606 Fairview Ave, Berwick, PA 18603 on or about June 13, 2021 via United States Postal Service. Synchrony has no record that the Old Navy Visa plastic card or Old Navy Visa Account Agreement was returned as undeliverable. Attached as **Exhibit A** is a true and correct copy of the Old Navy Visa Account Agreement.

9. The last purchase posted to the Old Navy Visa Account on or about August 12, 2021, and the last payment posted to the Old Navy Visa Account on or about October 13, 2021. Both are reflected on the billing statements annexed hereto as **Exhibit B**.

10. The Old Navy Visa Account was charged off on June 3, 2022.

#### **Sale of the Grasley Old Navy Visa Account**

11. According to Synchrony’s records, Synchrony sold the Old Navy Visa Account to Midland Credit Management, Inc. on or about November 12, 2022.

12. On December 1, 2022 Synchrony mailed a letter to Grasley giving notice of the sale, annexed hereto as **Exhibit C**.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**SYNCHRONY BANK**

By: Angel Nayman

Name: Angel Nayman

Title: Vice President, Litigation Support

Date: September 18, 2023

## SYNCHRONY BANK



### SECTION I: RATES AND FEES TABLE GAP INC. VISA® CARD ACCOUNT AGREEMENT

#### Interest Rates and Interest Charges

<b>Annual Percentage Rate (APR) for Purchases</b>	<b>25.99%</b> This APR will vary with the market based on the Prime Rate.
<b>APR for Cash Advances</b>	<b>26.99%</b> This APR will vary with the market based on the Prime Rate.
<b>Paying Interest</b>	Your due date is at least 23 days after the close of each billing cycle. We will not charge you any interest on purchases if you pay your entire balance by the due date each month. We will begin charging interest on cash advances on the transaction date.
<b>Minimum Interest Charge</b>	If you are charged interest, the charge will be no less than \$2.00.
<b>For Credit Card Tips from the Consumer Financial Protection Bureau</b>	<b>To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at <a href="http://www.consumerfinance.gov/learnmore">http://www.consumerfinance.gov/learnmore</a>.</b>

#### Fees

<b>Transaction Fees</b>	
• Cash Advance	Either <b>\$10</b> or <b>5%</b> of the amount of each cash advance, whichever is greater.
• Foreign Transaction	<b>3%</b> of each transaction.
<b>Penalty Fees</b>	
• Late Payment	Up to <b>\$40</b> .

**How We Will Calculate Your Balance:** We use a method called “daily balance.” See your credit card account agreement on page 2 for more details.

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights is provided in your credit card account agreement on page 6.

**SECTION II: RATES, FEES AND PAYMENT INFORMATION**  
**GAP INC. VISA CARD ACCOUNT AGREEMENT**

**How Interest is Calculated**

<p><b>Your Interest Rate</b></p>	<p>We use a daily rate to calculate the interest on your account each day. The daily rate is the applicable APR times 1/365. Interest will be imposed in amounts or at rates not in excess of those permitted by applicable law.</p> <p>The APR for purchases is the prime rate plus 22.74%. As of April 1, 2020, the daily rate for purchases was .07121% (APR 25.99%).</p> <p>The APR for cash advances is the prime rate plus 23.74%. As of April 1, 2020, the daily rate for cash advances was .07395% (APR 26.99%).</p> <p><b>Daily Rates May Vary.</b> The APRs and the daily rates on your account vary with the market based on the prime rate. The prime rate for a billing cycle is the highest bank prime loan rate published in <i>The Wall Street Journal</i> in its Money Rates section on the last business day of the calendar month preceding the first day of the billing cycle.</p> <p>If the prime rate increases, the daily rates and APRs will increase. As a result, interest, your total minimum payment and the number of payments it would take you to pay off your account balance may increase. We apply any change in rates because of a prime rate change to your entire account balance. A change in the prime rate will take effect on the first day of the first billing cycle after the change. We may select a new interest rate index if the prime rate is not available.</p>
<p><b>When We Charge Interest</b></p>	<p><b>Purchases.</b> We charge interest on your purchases from the date you make the purchase until you pay the purchase in full. See exceptions below.</p> <ul style="list-style-type: none"> <li>• We will not charge you interest during a billing cycle on any purchases if:           <ol style="list-style-type: none"> <li>1. You had no balance at the start of the billing cycle; OR</li> <li>2. You had a balance at the start of the billing cycle and you paid that balance in full by the due date in that billing cycle.</li> </ol> </li> <li>• We will credit, as of the start of the billing cycle, any payment you make by the due date that we allocate to purchases if:           <ol style="list-style-type: none"> <li>1. You had no balance at the start of the previous billing cycle; OR</li> <li>2. You had a balance at the start of the previous billing cycle and you paid that balance in full by the due date in the previous billing cycle.</li> </ol> </li> </ul> <p><b>Cash Advances.</b> We charge interest on your cash advances, and their related fees, from the date you make the transaction until you pay them in full. You cannot avoid paying interest on cash advances or their related fees.</p>
<p><b>How We Calculate Interest</b></p>	<p>We figure the interest charge on your account separately for each balance type. We do this by applying the daily rate to the daily balance for each day in the billing cycle. A separate daily balance is calculated for the following balance types, as applicable: purchases, cash advances and balances subject to different interest rates, plans or special promotions. See below for how this works.</p> <ol style="list-style-type: none"> <li>1. How to get the daily balance: We take the starting balance each day, add any new charges and fees, and subtract any payments or credits. This gives us the daily balance.</li> </ol> <p>We apply fees to balance types as follows:</p> <ol style="list-style-type: none"> <li>(a) late payment fees are treated as new purchases;</li> <li>(b) debt cancellation fees are added proportionately to each balance;</li> <li>(c) cash advance fees are added to the cash advance balance; and</li> <li>(d) foreign transaction fees are added to the purchase balance.</li> </ol> <ol style="list-style-type: none"> <li>2. How to get the daily interest amount: We multiply each daily balance by the daily rate that applies.</li> <li>3. How to get the starting balance for the next day: We add the daily interest amount in step 2 to the daily balance from step 1.</li> <li>4. How to get the interest charge for the billing cycle: We add all the daily interest amounts that were charged during the billing cycle.</li> </ol> <p>We charge a minimum of \$2.00 of interest in any billing cycle in which you owe interest. This charge is added proportionately to each balance type.</p>

## How Fees Work

<b>Cash Advance Fee</b>	We will charge this fee for each cash advance you make. For ATM cash advances this fee is in addition to any fee the ATM owner may charge you for use of the ATM.
<b>Foreign Transaction Fee</b>	We will charge this fee for purchases or cash advances you make in currencies other than U.S. dollars and/or in a country other than the U.S., whether or not the transaction was in a foreign currency.  If you make a transaction with your account in a currency other than U.S. dollars, Visa U.S.A. Inc. ("Visa") will convert the transaction amount into U.S. dollars using its currency conversion procedure. Under the currency conversion procedure that Visa currently uses, the non-U.S. dollar transaction amount is converted into a U.S. dollar amount by multiplying the transaction amount in the non-U.S. dollar currency by a currency conversion rate. Currently, Visa operating regulations provide that the currency conversion rate is either (1) a rate selected by Visa from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate Visa itself receives, or (2) the government-mandated rate in effect for the applicable central processing date. The currency conversion rate that is in effect on the central processing date may differ from the rate in effect on the transaction date or the posting date, and may be higher than the rate you could have gotten if you had converted U.S. dollars into the foreign currency.
<b>Late Payment Fee</b>	We will charge this fee if we do not receive the total minimum payment due on your account by 5 p.m. (ET) on the due date. This fee is equal to:  1. \$29, if you have paid your total minimum payment due by the due date in each of the prior six billing cycles. OR 2. \$40, if you have failed to pay your total minimum payment due by the due date in any one or more of the prior six billing cycles.  The late payment fee will not be more than the total minimum payment that was due.

### Minimum Payment Calculation

Your total minimum payment is calculated as follows.

The greater of:

1. \$29, or \$40 (which includes any past due amounts) if you have failed to pay the total minimum payment due by the due date in any one or more of the prior six billing cycles.

OR

2. The sum of:

(a) Any past due amounts; PLUS

(b) 1% of your new balance shown on your billing statement (excluding any balance in connection with a special promotional purchase with a unique payment calculation); PLUS

(c) Any late payment fees charged in the current billing cycle; PLUS

(d) All interest charged in the current billing cycle; PLUS

(e) Any payment due in connection with a special promotional purchase with a unique payment calculation.

We round up to the next highest whole dollar in figuring your total minimum payment. Your total minimum payment will never be more than your new balance.

## SECTION III: STANDARD PROVISIONS GAP INC. VISA CARD ACCOUNT AGREEMENT

### ABOUT THE CREDIT CARD ACCOUNT AGREEMENT

**This Agreement.** This is an Agreement between you and Synchrony Bank, 170 Election Road, Suite 125, Draper, UT 84020, for your credit card account shown above. By opening or using your account, you agree to the terms of the entire Agreement. The entire Agreement includes the four sections of this document and the application you submitted to us in connection with the account. These documents replace any other agreement relating to your account that you or we made earlier or at the same time.

**Parties To This Agreement.** This Agreement applies to each accountholder approved on the account and each of you is responsible for paying the full amount due, no matter which one uses the account. We may treat each of you as one accountholder and may refer to each of you as "you" or "your." Synchrony Bank may be referred to as "we," "us" or "our."

**Changes To This Agreement.** We may change, add or delete terms of this Agreement, including interest rates, fees and charges.

**Special Promotions.** The terms of this Agreement apply to any special promotion. However, any special promotional terms that are different than the terms in this Agreement will be explained on promotional advertising or other disclosures provided to you.

### HOW TO USE YOUR ACCOUNT/CARD

**Use Of Your Account.** You may use your account only for lawful personal, family or household purposes. You may use your account for purchases from Gap, Old Navy, Banana Republic or Athleta retail, online or Outlet/Factory stores located in the U.S., Puerto Rico and Canada, and from any merchant that accepts Visa credit cards. You may get cash advances as further explained below. You may not use your account to pay amounts you owe us on this account or any other accounts you have with us.

**Cash Advances.** We may offer you the opportunity to get a cash advance with convenience checks that we send you. We may not honor a convenience check for any reason stated on the check. You can also get cash or make a withdrawal from any institution or ATM that accepts the card or the account. In addition, we will treat any purchase of certain cash like items as cash advances. Cash like items include for example, money orders, cashier's checks, traveler's checks, electronic or wire transfers, foreign currency or other in bank transactions, tax payments, lottery tickets or other legalized gambling transactions, court costs, bail bonds and fines.

**You Promise To Pay.** You promise to pay us for all amounts owed to us under this Agreement.

**Your Responsibility.** Each accountholder will receive a card. You may not allow anyone else to use your account. If you do, or if you ask us to send a card to someone else, you will be responsible for paying for all charges resulting from their transactions.

**Transaction Limits.** To prevent fraud, we may limit the number or dollar amount of any type of transactions you can make in any particular amount of time. We also may decline any particular charge on your account for any reason.

**Credit Limit.** You will be assigned a credit limit and cash advance limit on your account that we may increase or decrease from time to time. If we approve a transaction that makes you go over your credit limit or your cash advance limit, we do not give up any rights under this Agreement and we do not treat it as an increase in either limit.

## HOW AND WHEN TO MAKE PAYMENTS

**When Payments Are Due.** You must pay at least the total minimum payment due on your account by 5 p.m. (ET) on the due date of each billing cycle. Payments received after 5 p.m. (ET) will be credited as of the next day. You may at any time pay, in whole or in part, the total unpaid balance without any additional charge for prepayment. If you have a balance subject to interest, earlier payment may reduce the amount of interest you will pay. We may delay making credit available on your account in the amount of your payment even though we will credit your payment when we receive it.

**Payment Options.** You can pay by mail or online. We may allow you to make payments over the phone but we will charge you a fee to make expedited phone payments. Your payment must be made in U.S. dollars by physical or electronic check, money order or a similar instrument from a bank located in the United States.

**How To Make A Payment.** You must follow the instructions for making payments provided on your billing statement. If you do not, credit of your payment may be delayed up to five days. Your billing statement also explains how information on your check is used.

**Payment Allocation.** We will apply the required total minimum payment to balances on your account using any method we choose. Any payment you make in excess of the required total minimum payment will be applied to higher APR balances before lower APR balances. Applicable law may require or permit us to apply excess payments in a different manner in certain situations, such as when your account has a certain type of special promotion.

## INFORMATION ABOUT YOU

**Using And Sharing Your Information.** When you applied for an account, you gave us and The Gap, Inc. (Gap Inc.) information about yourself that we could share with each other. Gap Inc. will use the information in connection with the credit program and for things like creating and updating its records and offering you special benefits. More information about how we use and share information is set forth in the privacy policy for your account.

**Address/Phone Change.** You represent that any phone number that you provide to us belongs to you and/or that you are authorized to provide that number. You also agree to tell us right away if you change your address or any phone number.

**Consent To Communications.** You consent to us, as well as any other owner or servicer of your account, contacting you through any channel of communication and for any purpose, as permitted by applicable law. For informational, servicing, fraud, or collection related communications, you agree that we may use the phone numbers that you provide to us to contact your cellular phone or wireless device with text messages, artificial or prerecorded voice calls, and calls made by an automatic telephone dialing system. Text frequency may vary and may be recurring. This consent applies even if you are charged for the call under your plan. You are responsible for any charges that may be billed to you by your communications carrier when we contact you. Message and data rates may vary. We and any carrier are not liable for delayed or undelivered messages. If you have questions, please call the number on the back of your card.

**Telephone Monitoring.** For quality control, you allow us to listen to and/or record telephone calls between you and us.

## IMPORTANT INFORMATION ABOUT YOUR ACCOUNT

**Closing Your Account.** You may close your account at any time by sending a letter to the address shown on your billing statement or calling customer service. We may close your account at any time, for any reason. If your account is closed, you must stop using it. You must still pay the full amount you owe and this Agreement will remain in effect until you do.

**Collection Costs.** If we ask an attorney who is not our salaried employee to collect your account, we may charge you our collection costs. These include court costs and reasonable attorneys' fees.

**Credit Bureau Reporting.** We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be shown in your credit report. Tell us if you think we reported wrong information about you to a credit bureau. Write to us at P.O. Box 965005, Orlando, FL 32896-5005. Tell us what information is wrong and why you think it is wrong. If you have a copy of the credit report that includes the wrong information, send us a copy.

**Default.** You are in default if you make a late payment, do not follow any other term of this Agreement or become bankrupt or insolvent. If you default or upon your death, we may (a) request payment of the full amount due right away, (b) take legal action to collect the amounts owed, and/or (c) take any other action allowed.

**Disputed Amounts.** The billing rights summary in section IV of this Agreement describes what to do if you think there is a mistake on your bill. If you send us correspondence about a disputed amount or payment, you must send it to the address for billing inquiries. We do not give up any rights under this Agreement if we accept a payment marked "payment in full" or given with any other conditions or limitations.

**Unauthorized Use.** If your card is lost, stolen or used without your consent, call us immediately at 1-866-450-4467 for Gap Visa Card Accounts, 1-866-450-2330 for Banana Republic Visa Card Accounts, 1-866-450-5294 for Old Navy Visa Card Accounts and 1-855-327-4359 for Athleta Visa Card Accounts. You will not be liable for unauthorized use on your account, but you will be responsible for all use by anyone you give your card to or allow to use your account.

**Transactions Processed On The Visa Network.** Transactions made using your credit card in a Gap Inc. store or at a Gap Inc. website are processed by Synchrony Bank and are not processed on the Visa network. As a result, these transactions are not eligible for certain benefits that apply to transactions processed over the Visa network. For example, transactions in a Gap Inc. store or at a Gap Inc. website do not count as eligible transactions for promotions that are sponsored by Visa, such as "Visa Extras." Your account is protected against unauthorized use as provided in this Agreement. In addition, Visa's Zero Liability policy applies to all transactions not made in a Gap Inc. store or on a Gap Inc. website.

## IMPORTANT INFORMATION ABOUT THIS AGREEMENT

**Assignment.** We may sell, assign or transfer any or all of our rights or duties under this Agreement or your account, including our rights to payments. We do not have to give you prior notice of such action. You may not sell, assign or transfer any of your rights or duties under this Agreement or your account.

**Enforceability.** If any part of this Agreement is found to be void or unenforceable, all other parts of this Agreement will still apply.

**Governing Law.** Except as provided in the Resolving a Dispute with Arbitration section, this Agreement and your account are governed by federal law and, to the extent state law applies, the laws of Utah without regard to its conflicts of law principles. This Agreement has been accepted by us in Utah.

**Waiver.** We may give up some of our rights under this Agreement. If we give up any of our rights in one situation, we do not give up the same right in another situation.

## RESOLVING A DISPUTE WITH ARBITRATION

**PLEASE READ THIS SECTION CAREFULLY. IF YOU DO NOT REJECT IT, THIS SECTION WILL APPLY TO YOUR ACCOUNT, AND MOST DISPUTES BETWEEN YOU AND US WILL BE SUBJECT TO INDIVIDUAL ARBITRATION. THIS MEANS THAT: (1) NEITHER A COURT NOR A JURY WILL RESOLVE ANY SUCH DISPUTE; (2) YOU WILL NOT BE ABLE TO PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING; (3) LESS INFORMATION WILL BE AVAILABLE; AND (4) APPEAL RIGHTS WILL BE LIMITED.**

- 1. CLAIMS AND PARTIES.** If either you or we make a demand for arbitration, you and we must arbitrate any dispute or claim between you (including any other user of your account), and us (including our parents, affiliates, agents, employees, officers, and assignees) that directly or indirectly arises from or relates to your account, your account Agreement or our relationship, except as noted below. In addition, The Gap, Inc. and/or any assignee, agent, or service provider of ours that collects amounts due on your account are intended beneficiaries of this Arbitration section and may enforce it in full (notwithstanding any state law to the contrary).
2. This Arbitration section broadly covers claims based upon contract, tort, consumer rights, fraud and other intentional torts, negligence, constitution, statute, regulation, ordinance, common law and equity and claims for money damages and injunctive or declaratory relief, even if they arose before this section took effect. You may not sell, assign or transfer a claim.
3. Examples of claims subject to arbitration are disputes about an account transaction, fees, charges or interest, the events leading up to the Agreement (such as any disclosures, advertisements, promotions or oral or written statements, warranties or representations made by us), an application for or denial of credit, any product or service provided by us or third parties in connection with the Agreement, credit reporting, benefit programs related to your account including any reward program, the collection of amounts due by our assignees, service providers, or agents and the manner of collection.
4. However, we will not require you to arbitrate any individual case in small claims court or your state's equivalent court, so long as it remains an individual case in that court. Also, even if all parties have opted to litigate a claim in court, you or we may elect arbitration with respect to any claim made by a new party or any claim later asserted by a party in any related or unrelated lawsuit, including modifying an individual claim to assert a class, representative or multi-party claim. Arbitration may be requested at any time, even where there is a pending lawsuit, unless a trial has begun, or a final judgment entered.
5. Only a court will decide disputes about the validity, enforceability, coverage or scope of this Arbitration section or any part thereof. However, any dispute that concerns the validity or enforceability of the Agreement as a whole is for the arbitrator to decide.
- 6. NO CLASS ACTIONS.** IF EITHER YOU OR WE ELECT TO ARBITRATE A CLAIM, NEITHER YOU NOR WE WILL HAVE THE RIGHT (A) TO PARTICIPATE IN A CLASS ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE ACTION IN COURT OR IN ARBITRATION, EITHER AS A CLASS REPRESENTATIVE OR CLASS MEMBER, OR (B) TO JOIN OR CONSOLIDATE CLAIMS WITH CLAIMS OF ANY OTHER PERSONS EXCEPT ACCOUNTHOLDERS ON YOUR ACCOUNT. **THUS, YOU MAY NOT BRING CLAIMS AGAINST US ON BEHALF OF ANY ACCOUNTHOLDER WHO IS NOT AN ACCOUNTHOLDER ON YOUR ACCOUNT, AND YOU AGREE THAT ONLY ACCOUNTHOLDERS ON YOUR ACCOUNT MAY BE JOINED IN A SINGLE ARBITRATION WITH ANY CLAIM YOU HAVE.**
- 7. PROCEDURES.** The party who wants to arbitrate must notify the other party in writing. This notice can be given after the beginning of a lawsuit or in papers filed in the lawsuit. Otherwise, your notice must be sent to Synchrony Bank, Legal Operation, P.O. Box 29110, Shawnee Mission, KS 66201-5320, ATTN: ARBITRATION DEMAND. The party seeking arbitration must select either the American Arbitration Association (AAA), 120 Broadway, Floor 21, New York, NY 10271, [www.adr.org](http://www.adr.org), or JAMS, 620 Eighth Avenue, 34th Floor, New York, NY 10018, [www.jamsadr.com](http://www.jamsadr.com), to administer the arbitration. If neither administrator can handle the dispute, a court with jurisdiction will appoint an arbitrator.
8. The arbitration administrator will appoint the arbitrator and will tell the parties what to do next. The arbitrator must be a lawyer with at least ten years of legal experience. The arbitrator must apply the same law, consistent with the Federal Arbitration Act (FAA), that would apply to an individual action in court, but may use different procedural rules. The arbitrator will apply the same statutes of limitation and privileges that a court would apply if the matter were pending in court.
9. The arbitrator may award any damages or other relief or remedies that would apply under applicable law to an individual action brought in court, including, without limitation, punitive damages (governed by the Constitutional standards employed by the courts) and injunctive, equitable and declaratory relief (but only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim). The parties will bear the fees and costs of their attorneys, witnesses and experts. However, the arbitrator will have the authority to award fees and costs of attorneys, witnesses and experts to the extent permitted by the Agreement, the administrator's rules or applicable law.
10. The arbitration will take place by phone or at a location reasonably convenient to you. If you ask, we will pay all the fees the administrator or arbitrator charges if you cannot obtain a waiver of fees from the administrator and are acting in good faith. We will always pay arbitration costs required by the administrator's rules or that are necessary for this Arbitration section to be enforced.
11. **GOVERNING LAW.** This Arbitration section is governed by the FAA. Utah law shall apply to the extent state law is relevant under the FAA, unless otherwise stated herein. The arbitrator's award will be final and binding, except for any appeal right under the FAA. Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitration award and any judgment confirming it will apply only to the specific case and cannot be used in any other case except to enforce the award.
12. **SURVIVAL.** This Arbitration section shall survive the repayment of all amounts owed, the termination, cancellation or suspension of the Agreement or your account or credit privileges, any legal proceeding, and any bankruptcy by you, to the extent consistent with applicable bankruptcy law. If this Arbitration section conflicts with the applicable arbitration rules or the other provisions of the Agreement, this Arbitration section shall govern.
13. **SEVERABILITY.** If any portion of this Arbitration section is held to be invalid or unenforceable, the remaining portions shall nevertheless remain in force with the following two exceptions. First, if a determination is made that the "No Class Actions" provision is unenforceable, and that determination is not reversed on appeal, then this Arbitration section shall be void in its entirety. Second, if a court determines that a public injunctive relief claim may proceed notwithstanding the "No Class Actions" provision, and that determination is not reversed on appeal, then the public injunctive relief claim will be decided by a court, and any individual claims will be arbitrated. The parties will ask the court to stay the public injunctive relief claim until the other claims have been finally concluded.
14. **HOW TO REJECT ARBITRATION.** You may reject this Arbitration section. If you do that, a court will resolve any dispute or claim. To reject this section, send us a notice within 45 days after you open your account or we first provided you with your right to reject this section. The notice must include your name, address, account number, and personal signature, and must be mailed to Synchrony Bank, P.O. Box 965012, Orlando, FL 32896-5012. This is the only way you can reject this section. Rejecting this Arbitration section will not affect any other provision of the Agreement. It will also not affect any prior arbitration agreement or dispute resolution provision between you and us, which will remain in full force and effect. If you don't reject this Arbitration section, it will be effective as of the date of the Agreement and will supersede any prior arbitration agreement between you and us that would otherwise be applicable.

## **SECTION IV: OTHER IMPORTANT INFORMATION GAP INC. VISA CARD ACCOUNT AGREEMENT**

**NOTICE FOR ACTIVE DUTY MILITARY MEMBERS AND THEIR DEPENDENTS:** The following disclosures apply to you if, at the time your account is opened, you are a "covered borrower" as defined in the Military Lending Act, which includes eligible active duty members of the Armed Forces and their dependents:

1. The provision in this Agreement called "Resolving a Dispute with Arbitration" will not apply to your account.
2. Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an Annual Percentage Rate of 36 percent. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).
3. You can call 1-855-367-4541 to hear the information in item 2 (above) and a description of the payment obligation for your account.

### **STATE NOTICES**

**NEW JERSEY RESIDENTS:** Certain provisions of this Agreement are subject to applicable law. As a result, they may be void, unenforceable or inapplicable in some jurisdictions. None of these provisions, however, is void, unenforceable or inapplicable in New Jersey.

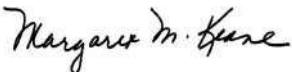
**TENNESSEE RESIDENTS:** This Agreement will not become effective unless and until we have (1) provided the disclosures required pursuant to the federal Truth in Lending Act, (2) you or an authorized user uses the account, and (3) we extend credit to you for that transaction on your account.

**WISCONSIN RESIDENTS:** No provision of a marital property agreement, a unilateral statement under sec. 766.59, Wis. Stats., or a court decree under sec. 766.70, Wis. Stats., adversely affects the interest of the creditor unless the creditor, prior to the time credit is granted, is furnished a copy of the agreement, statement or decree or has actual knowledge of the adverse provision when the obligation to the creditor is incurred. **Married residents of Wisconsin applying for an individual account must give us the name and address of their spouse if the spouse also is a Wisconsin resident, regardless of whether the spouse may use the card. Please provide this information to us at P.O. Box 965004, Orlando, FL 32896-5004.**

**PUERTO RICO RESIDENTS:** You may request a copy of this Agreement in Spanish.

**Your signature on the application or sales slip (or online screen) for the initial purchase approved on this account represents your signature on this Agreement. It is incorporated herein by reference.**

We have signed this Agreement as follows:



Margaret Keane  
CEO  
Synchrony Bank

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### **YOUR BILLING RIGHTS SUMMARY**

*Your Billing Rights: Keep this Document for Future Use*

This notice tells you about your rights and our responsibilities under the Fair Credit Billing Act.

*What To Do If You Find A Mistake On Your Statement*

If you think there is an error on your statement, write to us at:

Synchrony Bank  
P.O. Box 965003  
Orlando, FL 32896-5003

In your letter, give us the following information:

- **Account information:** Your name and account number.
- **Dollar amount:** The dollar amount of the suspected error.
- **Description of problem:** If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us:

- Within 60 days after the error appeared on your statement.
- At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors *in writing*. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

*What Will Happen After We Receive Your Letter*

When we receive your letter, we must do two things:

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

While we investigate whether or not there has been an error:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

After we finish our investigation, one of two things will happen:

- *If we made a mistake:* You will not have to pay the amount in question or any interest or other fees related to that amount.
- *If we do not believe there was a mistake:* You will have to pay the amount in question, along with applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question even if your bill is correct.

#### Your Rights If You Are Dissatisfied With Your Credit Card Purchases

If you are dissatisfied with the goods or services that you have purchased with your credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase.

To use this right, all of the following must be true:

1. The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50. (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)
2. You must have used your credit card for the purchase. Purchases made with cash advances from an ATM or with a check that accesses your credit card account do not qualify.
3. You must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at:

Synchrony Bank  
P.O. Box 965003  
Orlando, FL 32896-5003

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay, we may report you as delinquent.

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## GAP INC. CREDIT CARD REWARDS PROGRAM TERMS AND CONDITIONS

### Definitions:

- All Gap, Banana Republic, Old Navy, and Athleta credit card or Visa cardholders and Gap Inc. Visa Signature cardholders are eligible to participate in the Gap Inc. Rewards Program.
- "Account" means a Gap Account, Gap Visa Card Account, Banana Republic Account, Banana Republic Visa Card Account, Old Navy Account, Old Navy Visa Card Account, Athleta Account, Athleta Visa Card Account or a Gap Inc. Visa Signature Account.
- The Gap Inc. Rewards Program is collectively referred to herein as the "Rewards Program."
- Note: this Rewards Program is separate from the BRIGHT Rewards program.

If you participate in the Rewards Program for your Account, you accept the following Rewards Program Terms and Conditions ("Terms and Conditions"):

**Qualifying:** The Rewards Program applies when you make a purchase using your Account and you meet these requirements: Your Account is: 1) open, 2) in good standing, and 3) not more than 2 payments past due both at the time you earn Reward Points ("Points") and at the time rewards ("Rewards") are issued and redeemed by you. The Rewards Program does not apply to cash or debit card purchases or purchases at Gap, Banana Republic, Old Navy or Athleta using credit cards other than one of the Accounts. In addition, Points are only earned on the Account used to make the purchase and are not based on the store in which the purchase is made. For example, if you use a Gap Account to purchase Old Navy products, you will earn Points on your Gap Account (and not on an Old Navy Account). If you have more than one Account, you cannot transfer or combine Points between Accounts.

**Member Benefits:** The Rewards Program provides you with the following benefits:

- Shop in stores, online or directly via phone or mail at Gap, GapBody, babyGap, GapKids, Gap Maternity, Gap Outlet, Gap Factory Store, Banana Republic, Banana Republic Factory Store, Old Navy, Old Navy Outlet, Athleta or Hill City in the U.S. (including Puerto Rico) and Canada (each a "Store Location"). Rewards Points are not earned for purchases made at Intermix stores, intermixonline.com, Janie and Jack stores, or janieandjack.com. For every dollar in net purchases (net purchases are merchandise purchased minus returns and adjustments) charged to your Account at any Store Location, you will earn 5 Points; however, for purchases charged to your account via third-party payment providers such as PayPal, you will earn only 1 Point for every dollar in net purchases, even if such purchase is charged to your Account at a Store Location. You will earn 1 Point for every dollar in net purchases made at: (1) other merchants charged to your Account, or (2) Store Locations outside the U.S. and Canada that are charged to your Account. Cash advances, interest charges and fees do not qualify for Points. Points will be credited to your Account's Rewards Program balance. You may see Points you receive advertised as "% back in Rewards."
- Points awarded for purchases that are returned, refunded or otherwise adjusted will be deducted from your Points total. Such deductions may result in a negative Points balance, in which case, any subsequent Points earned will be applied to reduce that negative balance.
- For every 500 Points you earn on your Account, you will receive a Reward value of \$5 for that Account. Rewards will be issued in increments of \$5, with a minimum value of \$5 and a maximum value of \$50. Rewards will be issued by the same brand as the Account. Multiple Rewards may be issued for an Account; however, no more than \$250 in Rewards will be issued in any billing cycle. Any Points in a billing cycle that are either less than the amount required for the lowest denomination of a Reward on the Account or worth more than \$250 in Rewards will be applied toward a Reward in a future billing cycle. For example: If you earn 2,700 Points on your Gap Account, you will receive a \$25 Reward and 200 Points will carry forward in your Rewards balance for your next billing cycle; if you earn 5,000 Points on your Banana Republic Account, you will receive a \$50 Reward; and if you earn 1,500 Points on your Old Navy Account, you will receive a \$15 Reward.
- There is no limit to the amount of Points you can earn for an Account. Points earned but not used towards the issuance of a Reward will expire 24 months after your last purchase if your Account has been inactive (i.e., there has been no purchase activity on your Account) for 24 months. Rewards will expire as of the expiration date set forth in the issued Reward.
- Reward(s) will generally be issued on your Account on the billing statement for the period during which you accumulated the required number of Points for a Reward, or in some instances up to 2 billing cycles thereafter.
- **BIRTHDAY OFFER:** Available for cardholders who have made at least one purchase on their Gap Inc. credit card at a Store Location that matches the Gap Inc. brand on their Account within the twelve months preceding their birthday and whose account is in good standing. Not valid for Old Navy cardholders.

**Rewards Redemption:** You can redeem a Reward within the valid dates shown on the Reward by either (i) presenting the Reward in store or (ii) providing the Reward code online or via phone. Rewards may only be redeemed at Store Locations towards purchases charged to your Account. You can redeem up to 3 Rewards on a single transaction in store, and up to 5 Rewards online or via phone. Rewards can be combined with one promotional offer, and they can be used to purchase items on sale at any Store Location. Rewards may not be redeemed at Intermix stores, intermixonline.com, Janie and Jack stores, or janieandjack.com. When redeeming your Reward, the value of your purchase must be greater than the value of the Reward(s), and you must use a Gap Inc. credit card as the sole payment type for all amounts owed over the Reward value. Rewards cannot be credited to an account, redeemed for cash or cash equivalent, applied to past purchases, or used for purchasing gift cards. If you return merchandise purchased with Reward(s), the dollar value of the Reward(s) allocated to item(s) returned will be converted to Points and credited to your Account within the next 2 billing cycles. If you did not use your Account, or if your Account is closed, the dollar value of the Reward(s) allocated to the item(s) returned shall not be refunded or credited. Returns are subject to Store Location Return/Exchange policies. Additional restrictions may also apply as stated on your Reward. Employees of Gap Inc. cannot combine Rewards with their employee merchandise discount.

**General Terms for Using Rewards:** Rewards are not transferable to anyone else and may only be used by you for your personal benefit. You cannot combine your benefits with the benefits accrued by any other Rewards Program participant. Rewards are not "gift certificates" and are not intended for gift-giving purposes. Points and Rewards have no cash value and are purely promotional. Rewards cannot be used retroactively for prior purchases. Unless and until you complete the Program Terms and Conditions by presenting the Rewards at a Store Location, you do not have any right, title, or interest in your Points or the Rewards. We are not responsible for lost or stolen Rewards.

**Gap Silver, Banana Republic Luxe and Navyist by Old Navy Accounts:** Gap, Banana Republic and Old Navy Account holders who do all of the following will be upgraded respectively to a Gap Silver Account ("Silver"), Banana Republic Luxe Account ("Luxe") or Navyist by Old Navy Account ("Navyist"): (a) earn 5000 Points (excluding bonus points earned during a bonus reward point campaign and merchandise returns) on their Account within a single calendar year, (b) make at least the minimum payment due on their Account by the payment due date after reaching the 5000 Point qualifying threshold, and (c) keep their Account open, in good standing, and not become delinquent. Upgrades will be processed within 90 to 120 days after qualifying. The Account must requalify each calendar year as set forth above to maintain the upgraded status as a Silver, Luxe or Navyist cardholder. Upgraded accounts that are current, open, in good standing and do not become delinquent receive additional benefits when you use your card, such as:

- **QUARTERLY BONUS POINTS:** A quarterly bonus of 20% of Points earned as of the end of each calendar quarter (excluding bonus points earned during a bonus reward points campaign and merchandise returns). For example, if at the end of a calendar quarter you have earned 500 Points, we will add an additional 100 bonus Points to your Reward Account.
- **FREE BASIC ALTERATIONS AT BANANA REPUBLIC:** Available on merchandise purchased at Banana Republic stores and bananarepublic.com. Not valid on previous purchases. Not valid on leather and suede merchandise. Offer subject to change. Merchandise cannot be returned or exchanged after being altered.
- **FREE 3-5 DAY SHIPPING:** Offer valid for online orders placed at gap.com, bananarepublic.com, oldnavy.com, athleta.com, gapfactory.com, and bananarepublicfactory.com. This offer is valid on shipping to your order's first "ship to" address, anywhere in the U.S. (including Puerto Rico). If you choose another shipping option additional charges will apply. Orders must be shipped to a single address. Select the 3-5 day shipping option. No adjustments on previous purchases. Must enter one of the following promotional codes at checkout: Silver – MYCARD; Luxe – LUXE; Navyist – NAVYIST.

**Visa Signature Accounts:** Select Accounts may be upgraded to a Gap Inc. Visa Signature Account at the discretion of Synchrony Bank ("Bank") Gap Inc. Visa Signature Accounts will earn all the benefits listed above (as a Silver, Luxe or Navyist Account), plus additional benefits that will be communicated to the cardholder (such additional benefits may include bonus points earned for purchases, additional birthday bonuses and select benefits provided by Visa, U.S.A. Inc.). For Free 3-5 Day Shipping, enter SIGNATURE as the promotional code at checkout.

**Removal From or Modification/Termination of Rewards Program:** We reserve the right to remove any person from the Rewards Program in the event of any fraud or abuse as determined in our sole discretion in connection with this Program. We reserve the right to change or terminate the Rewards Program at any time and in any manner without notice.

**NO WARRANTY:** GAP INC., SYNCHRONY BANK AND EACH SUCH COMPANY'S RESPECTIVE SUBSIDIARIES, DIVISIONS, AND AFFILIATE ENTITIES, ALONG WITH EACH SUCH COMPANY'S RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS MAKE NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE REWARDS PROGRAM OR ANY PRODUCTS OR SERVICES RELATED TO SUCH PROGRAM.

**RELEASE OF LIABILITY:** YOU RELEASE GAP INC., SYNCHRONY BANK AND EACH SUCH COMPANY'S RESPECTIVE SUBSIDIARIES, DIVISIONS, AND AFFILIATE ENTITIES, ALONG WITH EACH SUCH COMPANY'S RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY AND ALL LIABILITY RELATING TO YOUR MEMBERSHIP OR PARTICIPATION IN THE REWARDS PROGRAM OR THESE TERMS AND CONDITIONS.

**Complete Agreement:** These Terms and Conditions, together with your Agreement (including, without limitation the "Governing Law" and "Dispute and Claim Resolution (including Arbitration) Provision" sections of the Agreement), make up the entire agreement between us relating to the Rewards Program, and replace any prior understandings or agreements (whether oral or written) regarding the Rewards Program. The Rewards Program is provided by Gap Inc. and serviced by Synchrony Bank.